

ATTACHMENT B

Exhibit A

Declaration of Dr. Hooman Noorhashm, MD, PhD

I, Dr. Hooman Noorhashm, MD, PhD, provide the following Declaration:

Background

1. I graduated from the Perelman School of Medicine at the University of Pennsylvania with a Doctorate degree in immunology and have taught and practiced clinical medicine for nearly two decades. In addition to an academic career in medicine, I am an advocate for patient safety and medical ethics.

2. I have served faculty appointments at the University of Pennsylvania School of Medicine, Harvard Medical School Brigham and Women's Hospital, Thomas Jefferson University Hospital, and Philadelphia VA Hospital. I have authored over 65 articles, abstracts, and reviews in peer-reviewed medical journals, including the New England Journal of Medicine, Journal of Immunology, Nature Medicine, American Journal of Transplantation, Critical Care Medicine, and Diabetes. I have testified on numerous occasions before the Food and Drug Administration (FDA) and state legislatures on issues related to medicine, patient safety, and patients' rights.

3. In 2013, my wife Dr. Amy Reed underwent an unnecessary hysterectomy operation, which we later learned caused stage 4 leiomyosarcoma, and she eventually died.

4. Before her death, my wife and I began spreading awareness of the procedure's danger and advocating for patient safety and patients' rights. In recognition of those efforts, I received a Health Policy Heroes Award from the National Center for Health Research in 2015.

5. To continue the work that Amy and I started, I founded the American Patient Defense Union, Inc. (APDU), an organization dedicated to advocating for patient rights and

autonomy, preserving the integrity and sacred relationship between doctors and their patients, and protecting doctor and patient decisions about medical treatments from third-party influence.¹

Professor Zywicki's Medical Condition

6. On May 27, 2021, Professor Zywicki contacted me for advice on how to determine the status of his immunity to COVID-19 and the likelihood of having been infected. I agreed to review his case and provide my opinion.

7. During a phone call that same day, Professor Zywicki informed me of the following relevant facts:

- a. In early March 2020 he fell ill with a set of symptoms (chills, night sweats, fatigue, mental foggiess) that have been identified as consistent with a COVID-19 infection.
- b. At this early stage of the pandemic, COVID-19 tests were scarce and required a doctor's prescription, so Professor Zywicki tried but was unable to procure one.
- c. Professor Zywicki subsequently tested positive several times for COVID-19 antibodies when donating blood at the American Red Cross.
- d. He further informed me that he had recently recovered from a severe shingles infection that had caused paralysis in the left side of his face for nearly two weeks. Professor Zywicki was concerned by news reports that suggested a possible relationship between the COVID-19 vaccine and reemergence of shingles, which is a virus.²

¹ See Hooman Noorchashm, *Why Does Every American Need The American Patient Defense Union (APDU)?*, MEDIUM.COM (Oct. 17, 2017), <https://noorchashm.medium.com/why-every-american-needs-the-american-patient-defense-union-apdu-2912e1fee5d4>.

² See, e.g., American Academy of Allergy Asthma & Immunology, *Shingles following Pfizer COVID-19 vaccine* (Apr. 29, 2021), <https://www.aaaai.org/allergist-resources/ask-the-expert/answers/2021/shingles-covid>.

- e. After an extensive discussion about his medical condition, I issued a prescription for full COVID-19 serological screening, which was conducted on June 1, 2021, at LabCorp. I examined the results and, as expected, the test confirmed that Professor Zywicki had previously recovered from SARS-CoV-2 and had a positive IgG Spike Antibody assay and a positive SARS-CoV-2 Nucleocapsid result.
- f. Professor Zywicki's semiquantitative antibody reading measured 715.6 U/ml—approximately 900 times higher than the baseline level of <0.8. This level is comparable to that I have seen empirically in vaccinated persons who share his age and health profile, including myself. In my opinion, Professor Zywicki's spike antibody level is highly likely to be far above the minimum necessary to provide adequate protection against re-infection from the SARS-CoV-2 virus.

Principles of Medical Ethics and George Mason University's (GMU's) Vaccine Mandate

8. There are four basic principles governing medical ethics in the United States: (1) autonomy, (2) justice, (3) beneficence, and (4) non-maleficence.

9. A highly influential public health framework proposed by Childress, et al., lists five conditions that public health interventions must satisfy: (1) effectiveness, (2) proportionality, (3) necessity, (4) least infringement, and (5) public justification.³

10. The principle of necessity is reinforced by the principle of “least infringement,” which requires that any intervention “seek to minimize the infringement of general moral considerations.” In particular, “when a policy infringes autonomy, public health agents should seek

³ James F. Childress, et al., *Public Health Ethics: Mapping the Terrain*, 30(2) J. LAW & MED. ETHICS 170 (2002).

the least restrictive alternative; when it infringes privacy, they should seek the least intrusive alternative.”⁴

11. The principle of proportionality is also a defense against one-size-fits-all approaches that can cause harm in the context of medicine.

It is Medically Unnecessary for Professor Zywicki to Undergo Vaccination Against SARS-CoV-2, and Forcing Him to Do So Would Subject Him to an Elevated Risk of Adverse Side Effects

12. It is my opinion that undergoing a full course vaccination (two doses of an mRNA vaccination or one dose of the Johnson and Johnson [J&J] vaccine) is medically unnecessary, creates a risk of harm, and provides no benefit either to Professor Zywicki or the GMU community.

13. Multiple positive antibody tests conducted over the past year have confirmed that Professor Zywicki contracted and recovered from the SARS-CoV-2 virus at some point in the past. His recent semi-quantitative antibodies screening test establish that his immune protection, as measured by his repeated antibody tests, remains quite high.

14. A series of epidemiological studies have demonstrated to a reasonable degree of medical certainty that natural immunity following infection and recovery from the SARS-CoV-2 virus provides robust and durable protection against reinfection, at levels equal to or better than the *most effective* vaccines currently available.⁵

15. For example, according to the Centers for Disease Control (CDC), in clinical trials the J&J vaccine provides an efficacy of only 66.3%—*far* below any measured efficacy of natural immunity to date.

⁴ *Id.*

⁵ Cites (Cleveland clinic, England, Israel, etc.); N. Kojima, et al., *Incidence of Severe Acute Respiratory Syndrome Coronavirus-2 infection among previously infected or vaccinated employees*, <https://www.medrxiv.org/content/10.1101/2021.07.03.21259976v2> (July 8, 2021).

16. Natural immunity protection to SARS-CoV-2 has already proven long-lasting and experience with prior coronaviruses strongly indicates that T-cell immunity provided by natural immunity could last years or even decades.

17. I also believe that natural infection provides broad-based protection against current SARS-CoV-2 variants. Unlike vaccine-induced immunity, which is specialized to target the Spike-protein of the original Wuhan variant of the SARS-CoV-2 virus, natural immunity recognizes the full complement of SARS-CoV-2 proteins, enabling it to provide protection against a greater array of variants. Of course, my opinion will be subject to revision as variants arise in the future and clinical information becomes available.

18. Furthermore, based on my analysis of the clinical medical literature to date, undergoing a full course of vaccine treatment (two doses of mRNA or one dose of J&J vaccine) as required by GMU's vaccine mandate, in a setting of a prior infection and being immune, would expose Professor Zywicki to an elevated risk of adverse effects, including serious ones, when compared with individuals who have never contracted COVID-19.

19. In particular, Professor Zywicki's bout of Shingles concerns me because the causal virus, Herpes Zoster, resides in nerves and, in my opinion, can be reactivated by an unnecessary COVID-19 vaccination.

20. Any medical procedure carries the risk of adverse side effects. The SARS-CoV-2 vaccines are no exception. In many cases, the benefits of curing, mitigating, or preventing greater harm justifies undertaking a particular medical intervention notwithstanding any associated risk. But basic principles of medical ethics mandate that any potential benefits be weighed against the risks associated with the procedure.

21. Because Professor Zywicki has previously been infected with and recovered from SARS-CoV-2, in my opinion, a vaccination is unnecessary and could only subject the professor to the risk of harm.

22. Additionally, it is becoming clear that undergoing vaccination in the setting of having had a prior infection subjects him to an elevated risk of adverse side effects compared to those who have not previously been infected. Existing clinical reports indicate that individuals with a prior infection and natural immunity actually face an *elevated* risk of adverse effects from receiving the vaccine compared to those who have never contracted COVID-19.

23. According to a study in the medical journal *Life* (March 2021), “*our study links prior COVID-19 illness with an increased incidence of vaccination side effects* and demonstrates that mRNA vaccines cause milder, less frequent systemic side effects but more local reactions.”⁶ The elevated side effects identified in the article include events such as anaphylaxis, swelling, flu-like illness, breathlessness, fatigue, and others, some requiring hospitalization.

24. A study published in *The Lancet Infectious Diseases* (July 1, 2021) examined reports from 627,383 individuals using the COVID Symptom Study app. The authors reported a higher incidence of both systemic and local side effects from receiving the first vaccine dose for those who had previously been infected with COVID-19 compared to those who had not previously been infected.⁷

25. A study conducted at Mount Sinai Icahn School of Medicine also found among those receiving their first vaccine dose, “vaccine reactogenicity” was “substantially more pronounced in individuals with pre-existing immunity” than those who had not previously been

⁶ Alexander G. Mathioudakis, et al., *Self-Reported Real-World Safety and Reactogenicity of COVID-19 Vaccines: A Vaccine Recipient Survey*, 11 LIFE 249 (Mar. 2021).

⁷ Cristina Menni, *Vaccine side-effects and SARS-CoV-2 infection after vaccination in users of the COVID symptom study app in the UK: a prospective observational study*, 21 LANCET INFECTIOUS DISEASES 939-49 (July 2021).

infected and those with pre-existing immunity experienced “systemic side effects with a significantly higher frequency” than those who had not previously been infected.

26. In addition, there are numerous nonsystematic reports of individuals who have had unusually severe adverse reactions to vaccination shortly after recovering from COVID-19 infections.⁸

27. Notably many of these studies focused on the adverse effects of receiving just the *first* dose of a vaccine. They do not examine the frequency or severity of receiving a second dose of a vaccine. This uncertainty is especially important in light of the widespread recognition that those with natural immunity gain no significant benefit from receipt of a second vaccine dose (as is required by GMU’s mandatory vaccination policy).

28. It is a fundamental principle of immunology that “vaccinating a person who is recently or concurrently infected can reactivate, or exacerbate, a harmful inflammatory response to the virus. This is NOT a theoretical concern.”⁹ This applies to SARS-CoV-2 just as it does to viruses such as shingles.

29. Notably, Professor Zywicki was specifically cautioned against receiving a shingles vaccine for several months after recovering from his shingles infection this spring. This is proper medical advice.

30. To date, none of the vaccines in current application have been systematically or adequately tested for safety or efficacy in individuals who have previously been infected and

⁸ See *Multisystem Inflammatory Syndrome after SARS-CoV-2 Infection and COVID-19 Vaccination*, 27 (Number 7) EMERGING INFECTIOUS DISEASE (July 2021) (Centers for Disease Control and Prevention Dispatch); see also Hooman Noorchashm, *CDC Knows Vaccine Associated Critical Illness and Myocarditis are Linked to Prior COVID-19 Infections*, MEDIUM.COM (Jun 2, 2021), <https://noorchashm.medium.com/cdc-knows-vaccine-associated-critical-illness-and-myocarditis-are-linked-to-prior-covid-19-62942c39c5ca>.

⁹ Hooman Noorchashm, *The Recently Infected and Already Immune DO NOT Benefit from COVID-19 Vaccination*, MEDIUM.COM (Jun 1, 2021), <https://noorchashm.medium.com/the-recently-infected-and-already-immune-do-not-benefit-from-covid-19-infection-7453886e8c89>.

recovered from SARS-CoV-2. In fact, Covid survivors *have overall been largely excluded* from Phase III vaccine clinical trials.¹⁰ Thus, any determination with respect to the safety profile of the vaccines in this population, of which Professor Zywicki is a member, can only be inferred from clinical studies in the time since the vaccines have been put into widespread application.

31. In contrast to the determination that Professor Zywicki and I have reached after consultation about the details of his personal situation and medical history, GMU is inappropriately, and in violation of the rules governing medical ethics, imposing a “one-size-fits-all” vaccine mandate on every member of the GMU community.

32. GMU does not know the details of Professor Zywicki’s situation, including preexisting conditions he may have that could exacerbate the potential for adverse effects, the recentness of any COVID-19 infection, the presence of any other infections that might be relevant to his decision, and evidence of his existing immunity levels or potential for adverse effects, such as the results of any quantitative antibodies screening test.

33. GMU’s vaccine mandate is forcing Professor Zywicki to choose between following his doctor’s medical advice on one hand and being subject to GMU’s punishment – which includes being forced to socially distance, wear a mask, and undergo frequent COVID-19 testing – on the other. No patient should be put in such a position.

34. As with all patients, Professor Zywicki and his doctors should determine his future course of medical treatment. Thus, I will continue to monitor Professor Zywicki’s antibody levels as SARS-CoV-2 variants arise and/or immune protection starts to wane.

¹⁰ See Fabio Angeli, *SARS-CoV-2 vaccines: Lights and shadows*, 88 EUROPEAN J. OF INTERNAL MEDICINE 1-8 (2021).

GMU's Goals in Promoting Community Safety Can Be Accomplished More Effectively and with Less Harm Through Alternative, Less-Restrictive Means

35. Protecting the GMU community from COVID-19 transmission can be achieved without exposing COVID survivors in the community to the risk of harm, in contrast to GMU's current vaccination plan.

36. The emerging consensus in the clinical literature on the protective benefits of natural immunity compared to the elevated risks of indiscriminately vaccinating these individuals has led me to start the #ScreenB4Vaccine movement.¹¹ #ScreenB4Vaccine contains two elements: (1) testing for the presence of natural immunity through widespread antibody testing, and (2) for those who lack natural immunity or sufficient immunity protection, to test for presence of an active infection, before vaccination.

37. In fact, growing recognition of the highly protective character of natural immunity in preventing reinfection, along with the elevated risk of vaccinating those who have natural immunity, has recently led the European Union to recognize "a record of previous infection" as a valid substitute for vaccination.¹²

38. In short, just because an individual is vaccinated does not guarantee he is immune and just because he is not vaccinated does not mean he is not immune.

39. Instead of focusing its policy on blanket vaccination, therefore, GMU's policy should instead focus on *immunity*, regardless of how it is obtained.

¹¹ See Hooman Noorchashm, *What is #ScreenB4Vaccine? And Why Is It Necessary for Keeping Every American Maximally Safe in the COVID-19 Pandemic?* MEDIUM.COM (May 7, 2021), <https://noorchashm.medium.com/what-is-screenb4vaccine-80b639c4984e>.

¹² See Julia Buckley, *EU Digital Covid Certificate: Everything you need to know*, CNN.COM (June 9, 2021), <https://www.cnn.com/travel/article/eu-covid-certificate-travel-explainer/index.html>.

Conclusion

40. I call on GMU to act responsibly and, based on the principles of sound medical ethics and immunology, to recognize the importance of natural immunity in providing equal or better protection than existing vaccines. Such a policy would also acknowledge, and therefore avoid, the elevated risk of side effects from vaccination among those who have already survived a SARS-CoV-2 infection.

Respectfully submitted,

/s/ Hooman Noorchasm

Hooman Noorchashm MD, PhD.